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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,728	11/13/2003	Luciano Salice	298-214	2121
28249	7590	04/04/2006	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,728

Applicant(s)

SALICE, LUCIANO

Examiner

Hanh V. Tran

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. The abstract of the disclosure is objected to because it includes legal phraseology, such as "The invention". Correction is required. See MPEP § 608.01(b).

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The disclosure is objected to because of the following informalities: (1) page 4, line 13, "drawing should be "drawer", (2) page 5, last paragraph, supporting piece "4"?, and the base plate "25"?.

Appropriate correction is required.

Drawings

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "4" and 25, respectively, has been used to designate both a bottom and a supporting piece, and a rectangular end stop and the base plate, respectively. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with terms that lack antecedent basis, e.g., (1) claims 5, 14, 15, "sprung limb", (2) claims 5, 8, 10, 14, 16, "the locking projections". Applicant is required in response to this Office action to carefully study and amend the claims accordingly to overcome the antecedent basis.

Art Unit: 3637

Claim 1, (1) the term "and/or" is indefinite for failing to clearly define the metes and bounds of the claimed invention, (2) line 5, "against spring force" should be "against a spring force". Claim 3, since claim 1 recited just one drawer rail, the recitation of "each drawer rail", which implies more than one, in claim 3 renders the claim indefinite.

Claims 4, 12-13, the limitation "at the ends which are connected to each other by a web part" is vague, thus indefinite for failing to clearly define whether it is both ends of the locking catch connected to the web part or ends of another element. Claim 6, "the recess" lacks antecedent basis. Claim 9, "the locking recesses" lacks antecedent basis. Claim 16, "the sprung limb" is indefinite for failing to clearly define which limb it is referring to. Claims 17-19, "the recess" lacks antecedent basis. For the purpose of this examination, all claims will be examined as best understood or so far as definite.

9. Regarding claims 3 and 11, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-6, and 10-20, so far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Germany DE 9204845.

DE 9204845 discloses a device for connecting a draw-out rail to a drawer comprising all the elements recited in the above listed claims including, such as shown Fig 4a, an installation fitting having a locking catch 16 being interlockable with a drawer-out rail 7 and being releasable from its locking position by a two-armed lever, with one arm shaped as a handle 17, locking catch also including sprung limbs, the draw-out rail 7 comprises a locking projection 23', a recess being lapped by an end stop 15.

12. Claims 1-6, and 10-20, so far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,580,139 to Grabher.

Grabher discloses a device for connecting a draw-out rail to a drawer comprising all the elements recited in the above listed claims including, such as shown Figs 1-2, an installation fitting having a locking catch being interlockable with a drawer-out rail 9 and being releasable from its locking position by a two-armed lever, with one arm shaped as a handle 16, the locking catch also including sprung limbs 16-17, the draw-out rail 9 comprises a locking projection 12, a recess being lapped by an end stop 15.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grabher in view of DE 20211803 to Salice.

Grabher discloses all the elements as discussed above except for the installation fitting comprising an adjustment device which can comprise a two-armed lever which is swivellably held on the supporting piece with one arm forming an actuation handle and the other arm bearing a wedge-shaped disk which can be inserted into a gap between the bottom of the drawer and the draw-out rail.

Salice teaches the idea of providing a drawer guide with an adjustment device, wherein the adjustment device can comprise a two-armed lever which is swivellably held on the supporting piece with one arm forming an actuation handle and the other arm bearing a wedge-shaped disk which can be inserted into a gap between the bottom of the drawer and the draw-out rail for the purpose of aligning the front panel of the drawer relative to the carcass and/or the lateral walls of the drawer. Therefore, it would have been obvious and well within the level of one skill in the art to modify the structure of Grabher by providing the installation fitting comprising an adjustment device which can comprise a two-armed lever which is swivellably held on the supporting piece with

Art Unit: 3637

one arm forming an actuation handle and the other arm bearing a wedge-shaped disk which can be inserted into a gap between the bottom of the drawer and the draw-out rail for the purpose of aligning the front panel of the drawer relative to the carcass and/or the lateral walls of the drawer, as taught by Salice, since both teach alternate conventional drawer guide structure, used for the same intended purpose, thereby providing structure as claimed.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rock, Cunningham et al, Berger, Lautenschlager et al, Fielding et al, Rioja, Standard, Vonier, and Schock all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT

March 19, 2006

A handwritten signature in black ink, appearing to read 'Hanh V. Tran', with a long horizontal flourish extending to the right.

Hanh V. Tran

Art Unit 3637